IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NOS. 504, 2492 AND 6477 ALL of 1985

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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M M CHAUHAN

Versus

DGP

Appearance:
MR YN OZA for Petitioner No. 1
MR ND GOHIL for the respondents

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 11/09/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE RAVI R.TRIPATHI)

#. The present Petitions were filed for the relief that

the order of reversion be quashed and set aside reverting the petitioners from the post of Police Sub Inspector to Head Constable. The petitioners also prayed for the relief that Clause III of Section 2 of the Notification dated 22nd May 1980 be quashed and set aside, without placing any such Notification on record of these Petitions.

#. The case of the petitioners is that the petitioners were Head Constables and they were promoted to the post of Police Sub Inspectors by different promotion orders. It was clearly stated in the promotion orders that the petitioners were promoted `purely on local and temporary basis' (emphasis supplied). The petitioners submit that they were allowed to continue on the said posts until the orders of reversion were passed. Thereafter, by virtue of interim orders passed in these matters though the impugned orders of reversion were passed by the Department, they continued to hold the post of P.S.I. It is not the case of the petitioners that as they were `unqualified Head Constables' for whom a quota of 25% is reserved, and against that quota, they were selected and promoted and the words used in promotion order, `local and temporary basis' are not to be given any effect.

#. The petitioners are also not able to make out a case that the petitioners are the only qualified candidates from the category of `unqualified Head Constables'. That they are the only eligible candidates to be promoted to the post of Police Sub Inspectors and therefore they were rightly promoted and they are not required to be reverted.

#. Learned advocate appearing for the petitioners requested that as by way of ad-interim relief the operation of the orders of reversion was stayed, the respondents be directed to fix the pension on the basis of last pay drawn. The request has no merits. When the petitioners were promoted to the post of Police Sub Inspector only on `local and temporary arrangement', the petitioners do not derive any right by continuing on the post of Police Sub Inspector. The petitioners were reverted by the impugned orders. Validity of these orders is not assailed successfully by the petitioners. The fact that the petitioners were promoted to the post of Police Sub Inspector due to non availability of regular Sub Inspectors, the petitioners cannot get any benefit out of such promotion which is not otherwise admissible to them under law. It will be open for the Department to fix the pension of the petitioners in accordance with law.

#. The Petitions, therefore, fail and are hereby dismissed. Ad-interim relief is vacated. `Rule' issued in each of these Petitions is discharged.

There shall be no order as to costs.

(D.M. DHARMADHIKARI, C.J.)

(RAVI R. TRIPATHI, J)

[sndevu]